

BEFORE  
THE PUBLIC SERVICE COMMISSION OF  
SOUTH CAROLINA  
DOCKET NO. 2007-193-C – ORDER NO. 2007-805  
NOVEMBER 13, 2007

IN RE: Application of FTC Communications, Inc.	)	ORDER DESIGNATING
d/b/a FTC Wireless for Designation as an	)	FTC COMMUNICATIONS,
Eligible Telecommunications Carrier (ETC)	)	INC. D/B/A FTC WIRELESS
Pursuant to Section 214(e)(2) of the	)	AS AN ELIGIBLE
Communications Act of 1934	)	TELECOMMUNICATIONS
	)	CARRIER

**I. PROCEDURAL BACKGROUND**

This matter comes before the South Carolina Public Service Commission ("Commission") upon the petition of FTC Communications, Inc. d/b/a FTC Wireless ("FTC Wireless") for designation as an Eligible Telecommunications Carrier ("ETC"), pursuant to 47 U.S.C. § 214(e)(2), for the purpose of receiving federal universal service funding. FTC Wireless filed its Application (the "Petition") on May 9, 2007.

A public hearing was held in this matter on July 25, 2007. FTC Wireless was represented by William E. DuRant, Jr., Esquire, and Stephen G. Kraskin, Esquire. FTC Wireless presented the direct testimony of N. Douglas Horne and Ronald K. Nesmith. FTC Wireless also presented the responsive testimony of Ronald K. Nesmith.

The South Carolina Telephone Coalition ("SCTC") was represented by M. John Bowen, Jr., Esquire, and Sue-Ann Gerald Shannon, Esquire. The SCTC presented the direct and reply testimony of Glenn H. Brown.

The Office of Regulatory Staff ("ORS") was represented by C. Lessie Hammonds, Esquire and Shealy Reibold, Esquire. ORS did not present a witness.

## **II. INTRODUCTION AND BACKGROUND**

This docket was established to consider FTC Wireless's petition to be designated as an ETC throughout the area of South Carolina served by the Farmers Telephone Cooperative. Section 254(e) of the federal Telecommunications Act of 1996 ("Act") provides that only an ETC as designated under Section 214(e) of the Act may receive federal universal service support.

The goal of universal service is to ensure that "Consumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban areas and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas." 47 U.S.C. § 151, § 254. Any consideration of a petition to designate an ETC for purposes of receiving federal funds intended to preserve and advance universal service should be undertaken in a manner consistent with these overall goals.

Pursuant to Section 214(e)(2) of the Act, this Commission has jurisdiction to designate a common carrier as an ETC for a service area designated by the Commission if the carrier meets the requirements set forth in Section 214(e)(1) of the Act. Section 214(e)(1) of the Act requires that a telecommunications carrier seeking designation as an ETC must offer the services that are supported by federal universal service support mechanisms, and must advertise the availability of those services and the charges therefore using media of general distribution. The Commission may, with respect to an area served by a rural telephone company, and shall, in all other cases,

designate more than one common carrier as an ETC for a designated service area, consistent with the public interest, convenience and necessity, so long as the requesting carrier meets the requirements of 47 U.S.C. § 214(e)(2).

The Federal Communications Commission ("FCC") has defined the services that are supported by Federal universal service support mechanisms to include the following nine (9) core services:

- 1) voice grade access to the public switched network;
- 2) access to free of charge "local usage" defined as an amount of minutes of use of exchange service;
- 3) dual tone multi-frequency signaling or its functional equivalent;
- 4) single-party service or its functional equivalent;
- 5) access to emergency services;
- 6) access to operator services;
- 7) access to interexchange service;
- 8) access to directory assistance; and
- 9) toll limitation services for qualifying low-income consumers.

47 C.F.R. § 54.101(a). These nine services must be offered throughout the service area for which the designation is received, and must be offered using either the ETC's own facilities or a combination of its own facilities and resale of another carrier's services. 47 U.S.C. § 214(e)(1); 47 C.F.R. § 54.201(d)(1). The requirement that a carrier "offer" the service does not mean that it must actually provide ubiquitous service prior to certification as an ETC and, in fact, the Commission cannot place such a condition on a carrier prior to certification. *See, e.g., Federal-State Joint Board on Universal Service, RCC Holdings, Inc., Petition for Designation as an*

Eligible Telecommunications Carrier Throughout its Licensed Service Area in the State of Alabama, Memorandum Opinion and Order, DA 02-3181 (Wireless Comp. Bureau, rel. Nov. 27, 2002).

The FCC has adopted additional requirements that must be met by carriers seeking ETC designation from the FCC. See Federal-State Joint Board on Universal Service, Report and Order, 20 FCC Rcd 6371 (rel. March 17, 2005) ("FCC ETC Order"). According to the FCC's additional requirements, in order to be designated as an ETC, the carrier must:

- (1) (i) Commit to provide service throughout its proposed designated service area to all customers making a reasonable request for service; and  
  
(ii) Submit a five-year plan that describes with specificity proposed improvements or upgrades to the applicant's network on a wire center-by-wire center basis throughout its proposed designated service area;
- (2) Demonstrate its ability to remain functional in emergency situations;
- (3) Demonstrate that it will satisfy applicable consumer protection and service quality standards;
- (4) Demonstrate that it offers a local usage plan comparable to the one offered by the incumbent LEC in the service areas for which it seeks designation; and
- (5) Certify that the carrier acknowledges that the FCC may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

47 C.F.R. § 54.202(a).

Specifically, with respect to the five-year plan, the FCC requires:

Each applicant shall demonstrate how signal quality, coverage or capacity will improve due to the receipt of high-cost support; the projected start date and completion dates for each improvement and the estimated amount of investment for each project that is funded by high-cost support; the specific geographic areas where the improvements will be made; and the estimated

population that will be served as a result of the improvements. If an applicant believes that service improvements in a particular wire center are not needed, it must explain its basis for this determination and demonstrate how funding will otherwise be used to further the provision of supported services in that area.

47 C.F.R. § 54.202(a)(1)(ii).

While The FCC's requirements are not binding on this Commission, we have stated that, in evaluating ETC applications such as FTC Wireless's during the interim period prior to issuance of the Commission's own ETC regulations, we will "consider the FCC's guidelines regarding designation of new ETCs in conjunction with the Commission's existing framework of analysis of ETC applications as reflected in prior Commission orders such as Order # 2005-5, dated January 7, 2005, in Docket # 2003-158-C. In other words, we should be informed by – but not controlled by – those FCC guidelines, and the public interest should be paramount in our considerations." See Directive issued by the Commission in Docket No. 2006-37-C, dated May 30, 2007 and Order No. 2007-424.

With respect to the public interest determination, Section 214(e)(2) of the Act sets forth the analysis a state commission must perform in designating ETCs as follows:

A State commission shall upon its own motion or upon request designate a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the State commission. Upon request and consistent with the public interest, convenience, and necessity, the State commission may in the case of an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated by the State commission, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the State commission shall find that the designation is in the public interest.

(Emphasis added.)

While the states are free to establish their own public interest tests, in instances where states have declined or failed to exercise their jurisdiction under Section 214(e)(2), the FCC has applied a public interest analysis pursuant to its authority under Section 214(e)(6). Initially the FCC's standard was very lenient, and the FCC granted applications for ETC status based solely on a generalized statement by the applicant that doing so would bring the benefits of competition to the designated area. See, e.g., Guam Cellular and Paging, Inc., DA 02-174 (rel. January 12, 2002). However, concerns about exponential growth in the size of the federal USF, as well as a specific concern that the FCC's policy was not consistent with the intended use of universal service funding in high cost areas, led to the evolution of a more stringent public interest analysis. See, In the Matter of Federal State Joint Board on Universal Service, Virginia Cellular, LLC Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, FCC 03-338, CC Docket No. 96-45 (rel. January 22, 2004) ("Virginia Cellular"); In the Matter of Federal State Joint Board on Universal Service, Highland Cellular, Inc. Petition for Designation as an Eligible Telecommunications Carrier in the Commonwealth of Virginia, Memorandum Opinion and Order, FCC 04-37, CC Docket No. 96-45 (rel. April 12, 2004) ("Highland Cellular").

In these orders, the FCC clearly stated that the burden of proof was on the applicant to demonstrate that the public interest would be served by granting the application. Virginia Cellular at ¶ 26; Highland Cellular at ¶ 20. According to the FCC, the value of competition alone is not sufficient to satisfy the public interest test in rural areas. Virginia Cellular at ¶ 4; Highland Cellular

at ¶ 4. The determination of public interest instead requires a fact-specific balancing of the benefits and costs. Virginia Cellular at ¶ 28; Highland Cellular at ¶ 22. Factors that should be considered include: the benefits of increased competitive choice; the impact of multiple ETC designations on the universal service fund; whether the benefits of an additional ETC outweigh any potential harms; the unique advantages and disadvantages of the competitor's service offering; any commitments regarding quality of service; and the competitive ETC's ability to provide the supported services throughout the designated service area within a reasonable time frame. Virginia Cellular at ¶ 28; Highland Cellular at ¶ 22.

Even more recently, concerns with preserving universal service funding for its intended purposes in light of a burgeoning federal universal service fund led the Federal-State Joint Board on Universal Service ("Joint Board") to recommend that the FCC "take immediate action to rein in the explosive growth in high-cost universal service disbursements" by imposing an interim, emergency cap on the amount of high-cost support that competitive ETCs may receive. Recommended Decision, In the Matter of High-Cost Universal Service Support and Federal-State Joint Board on Universal Service, WC Docket No. 05-337 and CC Docket No. 96-45, FCC 07J-1, rel. May 1, 2007 ("Recommended Decision"), at ¶ 1.

While growth in the size of the federal USF is a major concern, it is a federal issue that must be addressed at the federal level. We would note this statement from the FCC regarding the acquisition of Alltel Corporation by Atlantis Holdings, LLC: "Although the [FCC] has not yet adopted the Joint Board's recommendation, this transaction implicates the Joint Board's recommendation." See *FCC Memorandum Opinion and Order* in WT Docket No. 07-128 – *Applications of ALLTEL Corporation, Transferor, and Atlantis Holdings LLC, Transferee For*

*Consent To Transfer Control of Licenses, Leases and Authorizations* at p.9. We consider this to indicate that the FCC is indeed beginning to bring the growth in the federal USF under control.

When FTC Wireless previously sought designation as an ETC in Docket No. 2003-158-C, this Commission utilized a public interest test whereby we conducted a specific, fact-intensive analysis to determine whether the public benefits associated with the designation would outweigh the public costs created by supporting an additional ETC. Order No. 2005-5 at p. 26, ¶ 7. We have also stated that, in making a public interest determination, we must keep in mind as our overriding principle the purpose of universal service funding, which is to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates, and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas. *Id.* at p. 27, ¶ 8. As we stated in our prior order, the federal USF is and should be treated as a scarce national resource. *Id.* at p. 31, ¶ 15. Therefore, we must carefully weigh the costs and risks associated with granting an application for ETC designation against the benefits that would inure to the citizens of South Carolina by our grant of the requested ETC designation.

### **III. FTC WIRELESS'S APPLICATION**

FTC Wireless filed its Application on May 9, 2007. FTC Wireless is a wireless common carrier utilizing its own facilities to provide wireless voice and data services within the South Carolina counties of Clarendon, Lee, Sumter and Williamsburg and certain portions of Florence and Georgetown counties. FTC Wireless has been providing service to these areas since 1997, first as a reseller, and then as a facilities-based carrier beginning in March of 2001. (Hearing Tr. p. 13). In its Application, FTC Wireless described the area for which it sought designation as the area served by the Farmers Telephone Cooperative. (Petition, P. 1).



FTC Wireless provided evidence that it offers, or is prepared to offer, the nine supported services throughout its proposed ETC service area, and that it advertises the availability of each of the supported services throughout its licensed service area, by media of general distribution. (Hearing Tr. p. 15-17). FTC Wireless stated that it offers its services over its own facilities which connect to AT&T's wireless mobile switching office in Columbia, South Carolina where the calls are switched to the public switched network or to other wireless users on the network. (Hearing Tr. p. 21). No evidence was offered on the record by any party to refute or challenge FTC Wireless with respect to any of these requirements for ETC designation established by the FCC in its Rules at 47 C.F.R. § 54.101(a).

FTC Wireless also addressed how it will comply with each of the FCC requirements for ETC designation established by the FCC ETC Order and set forth in the FCC Rules at 47 C.F.R. § 54.202(a). :

1.(i). Commitment to provide service throughout the proposed designated service area to all customers making a reasonable request for service.

With regard to the requirement to provide service throughout the FTC Wireless designated area to all customers making a reasonable request, FTC Wireless indicated it would comply with the specific processes established by the FCC, consistent with Section 54.202(a)(1)(i). (Hearing Tr. p. 18).

1.(ii). Submission of a five-year plan.

FTC Wireless initially filed a two-year proprietary plan with its Petition. Subsequently, on July 2, 2007, FTC Wireless filed a revised five-year plan. The proprietary five-year plan provides detail for the first two years and additional specificity for the first year, setting forth proposed improvements and upgrades to FTC Wireless's network on both a cell site by cell site basis and a

wire center-by-wire center basis throughout its proposed designated ETC service area. The plan explains how FTC Wireless will specifically use universal service funds to improve signal quality, coverage capacity, and emergency back-up services. In addition to the submission of this five-year plan, FTC Wireless commits to provide the Commission with annual updates demonstrating its planned utilization of USF proceeds for any subsequent period as required by the Commission. FTC Wireless maintains that this will ensure that the Commission is provided specific detailed information on a continuing basis to assist the Commission in its determination regarding its annual certification of ETCs and their utilization of USF.

The first year of the proprietary five-year Plan that FTC Wireless submitted is detailed, including the projected start date and completion date for each improvement and the estimated amount of investment for each project that FTC Wireless proposes to implement as a result of the receipt of USF. In addition, the proprietary plan provides population information to demonstrate the approximate number of individuals residing in the areas where FTC Wireless proposes to utilize the universal service funds to improve service. FTC Wireless notes that the benefits of the use of the USF in the targeted areas, however, are not limited to those who reside in the areas because anyone who travels through the FTC Wireless service area is a potential beneficiary of the planned improvements. (Hearing Tr. p. 23-24.)

SCTC generally criticized the FTC Wireless five-year plan, claiming that the Plan lacks sufficient detail for the Commission to make its public interest analysis.

In response FTC Wireless submitted that: 1) its plan contains ample detail in years one and two and reasonable detail thereafter; 2) its application is consistent with the requirements and guidelines that the FCC has established; 3) that FTC Wireless will not expend a single USF dollar

without Commission approval; 4) it will report to the Commission on a continuing basis, consistent with the Commission's proposed regulations; 5) it will adjust its plan over time as the universal service needs of its community change; 6) it will utilize its best efforts to provide for network deployment that will achieve universal service goals; 7) it will provide reliable voice-grade universal service throughout the area in which it is designated an ETC; and 8) that it will adjust its network plans as needed. (Hearing Tr. p. 61-62).

The SCTC submits that the Plan must include detailed tower site locations beyond the first year of the entire five-year plan; suggests that the planned new tower sites are located in lower-cost areas that FTC Wireless currently serves; that the Plan must specify the type of equipment that will be utilized; and that FTC Wireless did not provide coverage maps that indicate how coverage will be improved by implementation of the Plan. (Hearing Tr. p.114-116). SCTC also contends that the FTC Wireless five-year plan demonstrates that FTC Wireless will use USF as a replacement for investments that FTC Wireless would otherwise make in the normal course of business. (Hearing Tr. p. 116-119).

FTC Wireless submits that the Coalition's criticism of the five-year plan demonstrates the flaws of basing a public interest determination on an evaluation of a five-year plan in the midst of the dynamic change that is occurring not only in the administration of USF, but in the entire telecommunications industry. FTC Wireless explained that predicting exact start and finish dates of new cell sites is of little value in the changing environment.

FTC Wireless notes that SCTC Witness Brown ultimately recognizes the impracticality of predicting "specific network improvement projects more than two years in the future." (Hearing Tr. p. 122)

FTC Wireless also responded to the SCTC criticism suggesting that the five-year plan demonstrated that FTC Wireless planned to utilize USF to provide service in lower cost areas and that its use of USF would simply replace investments FTC Wireless would make in any event. FTC Wireless testified that its network has been leveraged as much as possible, and asserted that remaining unserved areas and areas with marginal coverage may not realize any dependable wireless coverage without universal service funding. In addition, FTC Wireless contends that none of its rural South Carolina service area would be considered “low cost” by any applicable industry standards. FTC Wireless noted that the license to serve the area was previously held by Cingular (now known as AT&T) which had no plans to build out network to serve the rural area when FTC Wireless obtained the license through a partition agreement with Cingular. FTC Wireless explained that its service area cannot be considered low cost because more than 70% of its existing cell sites produce less than 500,000 minutes per month, a figure that FTC Wireless contends is two to four times below the volume that large carriers require to justify the build-out of a cell site. (Hearing Tr. 46-47; see also, Hearing TR. p. 33).

With respect to the SCTC complaint that the maps provided by FTC Wireless did not demonstrate the improvements in coverage that would be achieved through the use of USF, FTC Wireless responded during the confidential closed portion of the hearing. FTC Wireless explained and demonstrated how the maps were color coded and indicated both “before” and “after” coverage to demonstrate the coverage benefits that would result from the utilization of USF. (Hearing Tr. p.30-31).

2. Demonstration of ability to remain functional in emergency situations.

Regarding the requirement to remain functional in an emergency, FTC Wireless explained how it has prepared for emergencies with battery backup or permanent generators at all of its cell sites. FTC Wireless has also acquired cellular on wheels or “COWs” which are portable cell sites that can be driven to locations where emergency conditions have disrupted service or where a site experiences a spike in traffic. (Hearing Tr. p. 19).

3. Demonstration that the carrier satisfies applicable consumer protection and service quality standards.

With respect to the requirement for consumer protection and service quality standards, FTC Wireless indicated that it maintains regional offices throughout its rural South Carolina service area to facilitate the provision of service to the public, and its technical personnel are available to deal with emergency situations seven days a week, twenty-four hours a day. FTC Wireless has also adopted the Cellular Telecommunications and Internet Association's (the “CTIA”) Consumer Code for Wireless Service. If FTC Wireless is designated an ETC by the Commission, it committed to report annually both to the Commission and the FCC the number of customer complaints it receives each year per 1000 handsets in order to enable the Commission to measure how well FTC Wireless meets its commitment to consumer protection and service quality. (Hearing Tr. p. 19).

4. Demonstration that the carrier offers a local usage plan comparable to the one offered by the incumbent LEC in the service area for which it seeks designation.

With regard to the provision of local usage plans comparable to the one offered by the incumbent LEC, FTC Wireless will implement a service plan consistent with this requirement if it is designated an ETC. FTC Wireless also stated that its current calling plans are often considered

by consumers to be superior to traditional incumbent LEC service offerings because there is no rate distinction between “local” and “long distance” calls. The designation of FTC Wireless as an ETC and the receipt of universal service support will enable FTC Wireless to offer customers a new service offering designed to meet the needs of those customers whose primary interest is in obtaining a basic, low-cost wireless connection to the network. The new service offering will provide basic unlimited local calling at rates comparable to those offered by the incumbent LEC, the Farmers Telephone Cooperative. FTC Wireless stated that it cannot afford to provide this type of plan in the absence of universal service support. (Hearing Tr. p. 15 and 20).

5. Certification that the carrier acknowledges that the Commission may require it to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area.

FTC Wireless also committed to the final additional FCC requirement to provide equal access to long distance carriers in the event that no other ETC is providing equal access within the service area. (Hearing Tr. p. 20-21).

Public Interest

FTC Wireless stated that the grant of its application would serve the public interest by enabling FTC Wireless to provide service to customers who may not otherwise be able to obtain wireless service. FTC Wireless will extend the availability of wireless service to those customers that may seek a low-cost connection to basic service with unlimited local coverage, as the Commission previously indicated should be included in a universal service offering by an ETC. FTC Wireless testified that its designation as an ETC will also produce the benefits of increased wireless coverage and emergency services as demonstrated in the proprietary build-out plan FTC Wireless has developed. FTC Wireless asserts that the receipt of universal service support will

enable it to construct facilities to offer service to currently unserved areas and improve the quality of service in areas of FTC Wireless's rural service area where market conditions alone would not warrant further investment. (Hearing Tr. p. 25-26).

FTC Wireless also explained that "cream-skimming" cannot result from the designation of FTC Wireless as an ETC. The FCC's concern about cream-skimming arises when a carrier seeking ETC status proposes to serve some, but not all, of a study area served by an incumbent rural local exchange carrier. This circumstance creates the possibility that the competitive ETC serves only the less costly to serve customers and the more lucrative customers. FTC Wireless submits that this cannot be the case with its request for ETC designation because FTC Wireless seeks designation as an ETC in the entire study area served by the Farmers Telephone Cooperative, and not just in a part of the service area. (Hearing Tr., p. 21-22).

In addressing the public interest considerations regarding its application, FTC Wireless observes the aspects of its current application that distinguish it from its prior application for ETC status before this Commission. In response to the Commission's prior concerns with respect to whether FTC Wireless's earlier proposed universal service offering would serve those customers who need basic low-cost connection to the network and unlimited local calling, FTC Wireless will implement a new service offering with unlimited local calling should it receive USF support whereby rural citizens residing in the FTC Wireless service area, who may not otherwise be able to afford wireless service, may utilize wireless service. (Hearing Tr. p. 24).

FTC Wireless also addressed the Commission's concern that its prior application did not provide sufficient specific information to assist the Commission in making an intensive fact-finding determination of whether the public interest would have been served by the designation of FTC

Wireless as an ETC. It provided very specific information to demonstrate how FTC Wireless would utilize universal service funding to offer new services, and how universal service funding will be allocated and used to build new towers and sites to bring quality service to specifically identified areas of rural South Carolina where market forces alone would not justify investment in infrastructure. In the process, local economies would benefit from direct investment and indirect benefits from improved infrastructure. In addition to the detailed submissions that FTC Wireless has submitted, FTC Wireless states that it stands committed on a continuing basis to provide the Commission with similar detail and reporting on an ongoing basis in order to ensure the Commission that it has the information necessary for it to determine that the utilization FTC Wireless makes of Universal Service Funds is consistent with the public interest. (Hearing Tr., p. 25.)

SCTC claims that the designation of FTC Wireless as an ETC will not serve the public interest. In support of this claim, SCTC cites the additional public cost of \$3.54 million per year. The SCTC believes that most of the USF FTC Wireless would receive would be spent on “capacity and technology upgrades in the lower cost portions of the service territory that FTC currently serves.” On this basis, SCTC asserts that designation of FTC Wireless as an ETC is not in the public interest because the increased public benefits of designating FTC Wireless as an ETC, SCTC believes, are far less than the costs. (Hearing Tr. p. 128-129 and 132-133).

In response, FTC Wireless submits that as a result of its designation as an ETC, twelve rural South Carolina communities and approximately 3,950 people will have new service or enhanced service after the first year of the plan. FTC Wireless reiterates that subsequent to its designation as an ETC, the Commission will have both the tools and the ability to ensure that FTC Wireless receives and expends USF dollars only in a manner that the Commission deems to be in



the public interest. FTC Wireless submits that the SCTC apparently confuses the legitimate and necessary lack of detail in a five-year plan with a lack of commitment to provide universal service throughout the area in which a carrier is designated an ETC and reiterates its commitment to universal service throughout the service area in which it seeks ETC designation. (Hearing Tr. 62-63).

In response to the SCTC contention that the designation of FTC Wireless as an ETC would have an adverse impact on the public because of the cost to the public associated with the ETC designation, FTC Wireless submitted evidence that the USF it would receive if it is designated an ETC would be less than 1/12 of 1% of the total federal USF high cost support program. (Hearing Tr. p. 56).

In sum, FTC Wireless argues that the designation of FTC Wireless as an ETC will serve the public interest by ensuring that the citizens of South Carolina receive some of the benefits of the funding of competitive carriers that consumers in 45 other states enjoy. Wireless maintains that its application for ETC status is consistent with the requirements and guidelines of the FCC and the proposed regulations of the Commission, and it requests that the Commission designate it as an Eligible Telecommunications Carrier in the wire centers shown in Exhibit A as attached to this Order.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

After thorough consideration of the entire record including the testimony, exhibits and the applicable law, the Commission makes the following findings of fact with respect to FTC Wireless's application:

1. FTC Wireless is a common carrier authorized to provide Cellular Mobile Radio

Service throughout South Carolina.

2. FTC Wireless has operated for several years in South Carolina and has expressed its commitment to continuing and expanding its service to South Carolina residents through utilization of USF funds it would receive if its application for ETC status is approved.

3. FTC Wireless currently provides customers with several of the services that the FCC has required ETCs to provide. FTC Wireless has agreed to offer all of the nine services set forth in 47 C.F.R. §54.01(a) using either its own facilities or a combination of its own facilities and resale of another carrier's services.

4. FTC Wireless has submitted a plan detailing its planned expansion and improvement of network transmission facilities, emergency service equipment, and services should it receive federal USF funding.

5. FTC Wireless has reiterated that expansion of and improvements to facilities, equipment and services will not be initiated in the designated areas unless it receives USF funding.

6. Federal USF funding is intended to ensure that consumers in all regions of the nation have access to quality telecommunications services at just, reasonable, and affordable rates and that the services and rates in rural, insular, or high cost areas are comparable to those in urban areas in accordance with Section 254(b) of the Telecommunications Act. The grant of designation as an ETC to FTC Wireless would result in the expansion of service to currently unserved or underserved areas in the requested service area and extend service to lower income areas through the utilization of Lifeline and Link-Up services and new service offerings. FTC Wireless states it will advertise Lifeline and Link-Up services throughout the ETC designated areas through newspapers, television, radio, public exhibits and displays, and its website, should its application

for ETC status be approved.

7. Granting FTC Wireless ETC status would result in infrastructure development in the projected areas, which could promote economic development due to the availability of high quality wireless services.

8. Granting FTC Wireless's petition to be designated an ETC would bring additional federal USF funds into South Carolina.

9. FTC Wireless has provided substantial information to the Commission regarding its application and has indicated it is willing to provide any further information the Commission requests in the future.

10. The Commission has authority to impose additional requirements on carriers it designates as ETCs in South Carolina. In doing so, the Commission recognizes that the additional requirements adopted by the FCC as set forth in 47 C.F.R. § 54.202(a) are more stringent than the requirements previously used for ETC designation and these new requirements will be guiding principles in development of Commission rules established for ETC designation. The Commission further recognizes these guidelines were the underlying principles used in the Commission-promulgated rules filed with the Legislative Council for designation of new ETCs. While the Commission continues to develop its own rules as of the date of this order, it has chosen to proceed with review of the applications for ETC designation.

11. FTC Wireless has met all the necessary statutory and regulatory prerequisites established in 47 U.S.C. §214(e)(1) for designation as an ETC.

12. Pursuant to FCC guidelines, the Commission finds that it is in the public interest, as defined by the FCC, to grant FTC Wireless ETC status for the above-stated reasons.

13. The Commission is to submit an annual certification to the FCC that a carrier has remained in compliance with the ETC requirements and standards prior to an ETC receiving continued federal USF support. Should the Commission determine, upon FTC Wireless seeking recertification in subsequent years, that FTC Wireless has not honored or followed through on its commitments and plans as set forth before the Commission, the Commission may deny FTC Wireless's annual recertification, thereby precluding FTC Wireless from receiving further federal USF support.

IT IS, THEREFORE, ORDERED THAT:

1. The Commission has jurisdiction to designate FTC Wireless as an ETC pursuant to 47 U.S.C. § 214(e)(2) in the same service area served by the Farmers Telephone Cooperative in its capacity as an incumbent local exchange carrier.

2. FTC Wireless is hereby designated, effective as of the date of this Order, as an ETC in the wire centers shown in Exhibit A as attached to this Order, and is eligible to receive all available support from the federal USF, including support for rural and "high-cost" areas and "low income" customers within its designated service territory.

3. All federal USF funding received as a result of this Order will be used to support the expansion and improvement of services in designated areas and to provide Lifeline and Link-Up program funds to low income customers.

4. FTC Wireless shall advertise to the public in its ETC-designated area that it is offering the supported universal services, and the charges for those services, in local circulation newspapers. FTC Wireless shall also advertise to the public the availability of Lifeline and Link-Up services in a manner reasonably designed to reach those likely to qualify for such services.

5. FTC Wireless shall abide by its commitment to provide service throughout its ETC-designated service area to all customers, including low income customers, making a request for service, the reasonableness of which may be determined by ORS.

6. FTC Wireless shall abide with all applicable statutes, rules, and regulations affecting ETC status and obligations. FTC Wireless shall also abide by the requirements and standards which may be established by this Commission in Docket No. 2006-37-C.

7. FTC Wireless shall comply with all annual reporting and certification requirements as set forth by applicable statutes, rules, and regulations.

8. Should the Commission determine FTC Wireless has not honored its commitments and plans as set forth before the Commission, or has failed to follow the applicable statutes, rules, or regulations, the Commission may deny FTC Wireless's annual recertification, effectively revoking FTC Wireless's designation as an ETC.

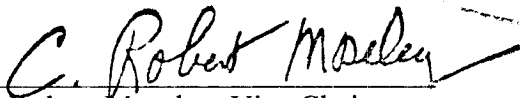
9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:



G. O'Neal Hamilton, Chairman

ATTEST:



C. Robert Moseley, Vice Chairman

(SEAL)

**NECA Serving Area: 240520****Wire Centers**

<u>Exchange Name</u>	<u>CLLI</u>	<u>NPA-NXX(s)</u>
Bishopville Rural	BSVLSCAVRSO	803-423, 428
Greeleyville	GRVLSCXARSO	843-426
Lane	LANESCXARSO	843-387
Lynchburg	LYBGSCXARSO	803-437
Mayesville	MYVLSCXARSO	803-453
North Kingstree	NKGSSCXADSO	843-201, 382
North Manning	NMNGSCXARSO	803-473, 505
North Sumter	NSMTSCXBDSO	803-469, 491, 905, 983
North Summerton	NSTNSCXARSO	803-478
Oakland	OKLDSCXARSO	803-498, 499
Pinewood	PNWDSCXARSO	803-452
Pocalla	POCLSCXARSO	803-481, 506
Scranton	SCTNSCXARSO	843-210, 389
East Sumter	SMTRSC02RSO	803-495
Stateburg	STBGSCXARSO	803-494, 501
Turbeville	TBVLSCXARSO	843-657, 659
West Andrews	WANDSCXARSO	843-221